

**REQUEST FOR PROPOSALS**

**FOR THE REDEVELOPMENT OF THE  
NASSAU VETERANS MEMORIAL  
COLISEUM SITE**

**RFP# CE0812-0557**

Issue Date: August 12, 2005

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**Nassau County**  
Long Island, New York

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## **A. INTRODUCTION**

Nassau County, New York (the “County”) seeks proposals from qualified developers for a sports-based transaction involving the redevelopment of the site of the present Nassau Veterans Memorial Coliseum (the “Site”) comprising approximately 77 acres. The County is seeking proposals that include both the renovation of the Coliseum and the redevelopment of the remaining acreage, but will consider any creative ideas for the redevelopment of the Site, including those that encompass a state-of-the-art sports arena on a new footprint. The County will consider a sale or up to a 99 year lease of all portions of the Site other than the Coliseum and the areas and improvements necessary for the proper operation and functioning of the Coliseum (such areas and improvements, the “Coliseum Improvements”). Also, the County contemplates remaining in title to the Coliseum and Coliseum Improvements and will consider up to a 99 year lease of such areas. Any sale or lease resulting from this Request for Proposals (this “RFP”) is referred to herein as a “Disposition.”

The County is considering entering into a sports-based transaction for the transformation of the Site. The County Executive has negotiated the terms of a potential disposition of the Site with an entity known as the Lighthouse Development Group, LLC, as more particularly is set forth in that certain proposed lease filed in the Office of the Clerk of the Nassau County Legislature. Attached to the lease as Schedule “C” is a description of the proposed Coliseum renovations. As such, the County reserves the right to dispose of the Site outside this solicitation process and the issuance of this RFP does not disqualify the pre-existing proposed lease with the Lighthouse Group from consideration and/or action by the County.

The County is entering into this RFP process to examine alternative competitive opportunities for the disposition of the Site. The RFP is designed to solicit responses from the sports/real-estate marketplace to identify and permit the evaluation of alternatives for the disposition of the Site which are credible, timely and provide for substantially better terms than the proposed disposition with the Lighthouse Group.

The County intends to consider proposals from one or more developers (each, a “Proposer”) who desire to acquire/lease and redevelop the Site in a manner consistent with the goals set forth in Section B of this RFP. Again, however, the County will consider other proposals, notwithstanding that they vary from these goals. As a result of and subject to the provisions of this RFP, the County may enter into a Disposition with one or more selected proposers (each, a “Selected Proposer”).

Nassau County is committed to policy of equal opportunity and does not discriminate against Proposers on the basis of age, sex, sexual orientation, race, color, creed, religion, ethnicity, national origin, disability, marital status, familial status, veteran status or any other basis protected under federal, state, and local laws, regulations, and ordinances.

## **B. GOALS**

The goals of the Disposition are the redevelopment policy objectives for the Site that are described below.

- Provide for the redevelopment of the Coliseum into a state-of-the-art, world-class sports facility to accommodate the New York Islanders or other comparable professional sports franchise(s). The anticipated renovations to the Coliseum will include additional seating and luxury boxes, increased and enhanced concession services and other amenities. The value of any such renovations proposed for the Coliseum must exceed \$150 million. The Coliseum renovations must be completed within three (3) years from the date that all necessary governmental approvals are obtained to permit commencement of construction, unless otherwise extended by the County.
- Provide for the operation of the Coliseum in a first-class manner after the expiration or sooner termination of the agreement with the present Coliseum operator, Spectacor Management Group (“SMG”).
- Provide for an extension of the New York Islanders’ agreement to play professional hockey at the Coliseum for a term expiring not earlier than July 31, 2025, or, in lieu thereof, for an agreement with a comparable professional sports franchise(s) expiring not earlier than July 31, 2025.
- Provide for the construction on the Site of deck parking for Coliseum use which must be completed prior to any other development at the Site.
- Provide that not less than fifteen (15%) percent of any residential units constructed on the Site will be “Workforce Housing,” which is defined as housing for a family or individual having an annual income of no more than \$90,000 in 2005, subject to annual Consumer Price Index adjustments.
- Provide for public transit access and use at the Site in connection with a future transportation system. As a result, a responsive proposal must provide for rights-of-way, public access easements and financial investment dedicated to the effective and efficient use of a new transportation system. To make this vision a reality, the County wishes to secure a partner committed to development at the Site which is supported by a public transportation system servicing both the Coliseum and the greater area known as the Nassau County Hub.
- Provide increased property and sales tax revenues for the County with improved economic and public benefits for the Town of Hempstead and surrounding communities.
- Create an attractive multiple-use destination center with additional public amenities in a manner which is consistent with the interests of the surrounding community.

The County seeks imaginative development concepts for the Site with creative open space and architectural and engineering designs.

### C. THE SITE

The Site consists of Section 44, Block F, Lots 403 and 351 on the Land and Tax Map of the County of Nassau as shown on the site map attached as Attachment "A". The property is located in Uniondale, New York and consists of approximately 77 acres. The Coliseum was built in 1972.

The existing Coliseum and the entire Site (including all parking areas), although owned in fee by the County, are presently controlled by SMG under a lease and by the New York Islanders under a lease, both leases expiring in July of 2015. The County has not entered into any final agreements with any of these entities to alter, amend or relinquish any of their present rights or obligations, provided, however, that any Proposer may communicate or negotiate directly with SMG or the Islanders and, at the request of a Proposer, the County will consider condemnation proceedings, but the Selected Proposer will be expected to pay the condemnation award and incidental costs, and/or any costs in connection with an assignment or other disposition of the leases.

A Proposer is expected to be familiar with the Site, existing land use conditions, zoning restrictions, encumbrances, and other regulation affecting further development of the Site.

### D. ANTICIPATED PROPOSAL SCHEDULE

RFP Issue Date	August 12, 2005
Pre-Proposal Conference/Site Visit	On or about August 31, 2005
Proposal Due Date	October 1, 2005

Dates and events indicated above are subject to change at the sole discretion of the County.

### E. PROPOSAL SUBMISSION INSTRUCTIONS

Each proposal shall be prepared simply and economically avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate, and reliable presentation. For ease of review, the proposals must follow the outline in the section of this RFP titled **Submission Requirements**. Each response should be clearly numbered and the full question listed.

The proposals must be signed by an individual who is authorized to bind the Proposer to all commitments made in the proposal. The original and five (5) copies of the proposal, together with all attachments, must be submitted to the County in a sealed opaque envelope no later than 4:00 p.m. EST on October 1, 2005. No telegraphic or facsimile proposals will be accepted. Any late proposals will be returned unopened. **Proposals received after the above date and time will not be considered.** The County is under no obligation to return proposals.

The County is under no obligation to respond to any question, inquiry or assertion that is not received in writing. Interested parties may contact the authorized contact person listed below by telephone to advise that a fax transmission has been sent to the above number. Violation of these provisions may result in immediate disqualification. Proposers will submit all proposals and direct all responses, questions, and any other communications to the following authorized contact person:

**Mr. Frank Ryan**  
**Director of Purchasing**  
**240 Old Country Road, Suite 307**  
**Mineola, New York 11501**  
**Telephone: (516) 571-4060**  
**Facsimile Number: (516) 571-4263**

No contact with any other County personnel other than the authorized contact person is allowed until such times as an award (or awards) has (have) been made.

#### **F. SPECIAL TERMS AND CONDITIONS**

- 1. Not an Offer.** This RFP does not constitute an offer to sell or lease the Site or any portion thereof, nor a solicitation of offers to sell or lease the Site or any portion thereof. The County shall not incur any obligation or liability on account of any submission made in connection with this RFP (nor shall any proposal be deemed accepted) unless and until an agreement setting forth all the terms and conditions of a transaction has been fully negotiated and a written agreement incorporating such terms and conditions has been fully executed and unconditionally delivered by all the parties thereto and all necessary consents and approvals have been obtained including, without limitation, approval of such written agreement by the Nassau County Legislature.
- 2. Taxes.** The Site is currently owned by the County and is exempt from real estate taxation. There is no guaranty that this exemption will continue and the Selected Proposer will be required to pay any and all real estate taxes on the Site, including any taxes on improvements thereon, provided, however, that the Selected Proposer will not be required to pay the County-portion of any real estate taxes on the Coliseum, the Coliseum Improvements and such ancillary improvements which, when added to the square footage of the Coliseum, do not exceed 805,000 square feet of floor area.
- 3. Permits and Approvals.** The Selected Proposer will be required, at its sole cost and expense, to comply with all applicable federal, state, and local laws and regulations, and to obtain from all appropriate government authorities, including, without limitation, the Town of Hempstead, all construction and ancillary approvals for the development of the Site, including but not limited to, all required building permits and approvals. All cost associated with

potential rezoning of the Site will be borne fully by the Selected Proposer.

- 4. Expenses.** Under no circumstances shall the County be liable for any of the costs of any Proposer or the Selected Proposer in connection with preparing a proposal in response to this RFP, negotiating with the County, or otherwise participating in this RFP process. The Selected Proposer shall be solely responsible for the following costs and expenses: (i) to the extent applicable, New York State real property transfer and conveyance taxes; (ii) recordation fees with respect to any recordable instruments contemplated by the documents, such as a lease or contract of sale, which shall govern the disposition of the Site (any such document is referred to herein as the "Disposition Contract"); and (iii) the cost of any surveys desired by the Selected Proposer. The Selected Proposer shall also be responsible, unless waived, for payment of the following costs and expenses of the County in connection with this RFP, the negotiation and drafting of the Disposition Contract and related documents, and the closing of any transactions relating to the disposition of the Site: fees and disbursements of outside counsel, engineers, appraisers, consultants, and financial and real estate advisors retained by the County. Commencing upon notice to the Selected Proposer on the selection date that it is the Selected Proposer, such Selected Proposer shall be liable for all of the County's costs described in this section, unless waived, regardless of whether the Disposition Contract is completed or there are any closings related to the disposition(s).
- 5. Environmental Issues.** Disposition of the Site will trigger the need for an environmental review(s), including review under the State Environmental Quality Review Act ("SEQRA"). The Selected Proposer will fully compensate the responsible governmental unit(s) for all costs and expenses associated with compliance with applicable environmental laws and regulations, including but not limited to the cost and expenses of preparing any and all reports, analysis, and documentation; public notifications, outreach, meetings, and hearings; and the procurement of environmental consultants and counsel as may be required.

The Selected Proposer shall be responsible for all environmental conditions at the Site arising from or connected with (a) any act or omission in connection with site investigations, site excavation and construction and all associated activities conducted by or on behalf of the Selected Proposer; (b) the release or threatened release of hazardous or regulated substances at any location where the Selected Proposer has caused materials removed from the Site to be transported and disposed; (c) the negligent use and occupancy of the Site and related property by the Selected Proposer or the failure of the foregoing to exercise due care in its operations; (d) the utilization of the Site by the Selected Proposer for non-permitted uses; or (e) the breach by Selected Proposer of any of the terms of the Disposition Contract. The Selected Proposer shall indemnify and hold the County harmless from any and all environmental claims,

environmental clean-up liabilities, and other actions, causes of action, suits, proceedings, administrative orders, costs, charges, and damages directly or indirectly arising therefrom.

The County recognizes that the Selected Proposer may desire to undertake further environmental investigation before being bound as described above, and the County will work with the Selected Proposer to establish a process to allow for such further investigation before the Selected Proposer is so bound. Such a process may include a requirement that the Selected Proposer enter into an entry permit with the County in which, among other things, the Selected Proposer would agree to indemnify and hold the County harmless from liabilities that may arise from the discovery of hazardous or regulated substances in, on or under the Site by the Selected Proposer or the Selected Proposer's consultants.

## **G. SUBMISSION REQUIREMENTS**

**Organization of Proposal.** The proposal should be organized as follows:

- 1. Disposition of Site -** The proposal must set forth in a section clearly designated “**PAYMENT TERMS**” the payments to be made to the County in connection with the disposition of the Site as follows:
  - Based on the "Where Is/As Is" condition of the Site which places all zoning and other risk on the Proposers and none on the County.
  - Based on an initial up-front payment and enhanced succeeding payments as zoning approvals and other beneficial development occurs, and/or
  - Based on any other proposed payment scenario.
- a. If the disposition is a fee simple transfer of the Site, identify the following for each scenario described in 1(i), 1(ii) and 1(iii) above:
  1. The proposed purchase price (the “Purchase Price”), including:
    - (i) The amount of the non-refundable down payment (the "Purchase Down Payment") to be paid upon execution and delivery of the Disposition Contract, which amount shall be not less than ten percent (10%) of the Purchase Price and which shall be in the form of cash or cash-equivalents. The Down Payment will be deducted from the Purchase Price.
    - (ii) The terms of payment of the remaining portion(s) of the Purchase Price.



- b. If the disposition is a non-subordinate lease of the Site, identify the following for each scenario described in 1(i), 1(ii) and 1(iii) above:
  1. The proposed term, including renewal options.
  2. The amount and timing of rent payments, including *any* pre-development rent or rent abatements.
  3. The guaranteed base rent to be paid the County throughout the term of the lease, including escalations. The description of escalations must include the method used to calculate escalations, their timing, and the projected amount of each escalation. Fair market rental resets and timing of the same should be described.
  4. Any additional payments to the County proposed by the Selected Proposer, including any proposed revenue from the operation of the Coliseum upon the expiration of the SMG lease.
  5. The County's share of proceeds from a capital event such as an assignment of the leasehold interest, transfer of interest in the Selected Proposer's business entity, refinancing or sale of the project, or any other capital event after construction

**2. Narrative.** A narrative description of the proposal must be provided in a section clearly designated "**NARRATIVE DESCRIPTION.**" It should include but not be limited to the following items:

1. Proposed use and/or redevelopment concept, including a detailed breakdown of commercial, retail, hotel and/or residential uses for the Site and any public areas or amenities. The proposal must describe how the proposed use and/or redevelopment concept enhances and is compatible with the surrounding residential and commercial communities;
2. Proposed site map showing how the Site may be enhanced by public transportation, including possible rights-of-way, easements, stations, station amenities including ticket selling area, links to deck parking, lighting and security in connection with a future transportation system. The narrative must include a statement of the proposed financial investment that the Proposer is willing to make in the future as an effective partner to support the success of this transportation vision;
3. Proposed property management, with particular reference to management of the Coliseum to ensure that the Coliseum is operated in a first-class manner;
4. Architectural features which illustrate the development program, including proposed renovations to the Coliseum to turn it into a

world-class sports facility and proposed construction of deck parking for Coliseum use. A responsive proposal must include a detailed breakdown of the costs associated with the Coliseum renovations, which must, at a minimum, equal \$150 million. A statement of proposed square footage calculations must be included;

5. Quantification of economic impact, including taxes, direct construction and permanent jobs (broken out separately) associated with the project, and other direct and multiplier effects on the economic activity of the County. This analysis must state all assumptions and describe in detail and set forth all quantitative methods and calculations used. The analysis must also provide a description of net new revenues to the County.

**3. Drawings and Plans.** The following drawings must be provided:

- a) General site plan, including proposed parking spaces.
- b) Site plan providing use, access and right of ways for a future transportation system.

**4. Financing Plan.** Each Proposer must submit a financing plan satisfactory to the County as part of its proposal in a section clearly designated “**FINANCIAL PLAN.**” This financing plan should include all information required to provide the County sufficient data to evidence that the proposed development can be financed, constructed, and delivered in a timely fashion. The financing plan should contain the following:

1. Development schedule and budget;
2. Sources and uses statement;
  - Sources, amounts, terms and conditions of financing and the Proposer’s equity; and
  - Breakdown of uses of funds in the project, including an itemized list of all costs associated with the improvements of the Site:
3. Evidence of financing consistent with sources and uses statement;
4. Evidence of financial capacity of lenders and equity sources;
5. Identity and financial capacity of guarantor to guaranty lien-free completion of the project

At the County’s request, the Proposer will submit a supplemental financing

plan setting forth such information as County (in consultation with its advisors) deems, in the exercise of its sole discretion, helpful or relevant in evaluating the Proposer or any aspect of its proposal and indicating any and all changes from any initial financing plan.

**5. Coliseum Renovation Schedule or Schedule In Lieu Thereof.**

a. **Coliseum Renovation Schedule.** Detailed schedule from the execution date of the Disposition Contract through substantial completion of the Coliseum renovation, including parking, must be provided. The renovation of the Coliseum must be performed in such manner as to minimize the complete closure of the Coliseum. The schedule should show estimated dates of commencement and completion of the renovation. The schedule should include but not be limited to the following:

1. Preliminary design (work on which should commence promptly after the occurrence of the Developer Selection Date);
2. Construction documents;
3. Reviews and approvals;
4. Construction; and
5. Substantial completion date; or

b. **Schedule In Lieu of Coliseum Renovation Schedule.** If the Proposal provides for redevelopment of the Site not including Coliseum renovations, then each Proposer must provide a detailed schedule for proposed construction other than Coliseum renovations.

**6. Development Team Information.** To enable the County to assess a Proposer's ability and resources to carry out the proposed redevelopment, the Proposer must submit with its proposal information regarding:

1. Description of Proposer, including a description of its organization, its history, its ownership and its organizational structure;
2. Description of development team (including the design team) structure and all relevant experience, including resumes for all principal team members; and
3. Complete disclosure of financial information of the Proposer, including credit information regarding the Proposer, credit references, and relevant financial statements, including, without limitation, net worth statements.

## **H. SELECTION PROCESS**

- A. General** The County may at any time exclude proposals that, in the sole and absolute discretion of the County, fail to comply with the requirements of this RFP.

The County will review all proposals for completeness and compliance with the terms and conditions of this RFP, and may request from any or all of the Proposers additional material, clarification, confirmation, or modification of any submitted proposal, including proposals that are incomplete or nonconforming as submitted. Except at the request or by the consent of the County (which consent shall be in the sole and absolute discretion of the County), Proposers will not be entitled to change their proposals once submitted. The County may solicit a Best and Final Offer (BAFO) from any or all Proposers.

The County reserves the right, at any time and in its sole and absolute discretion, to reject any or all proposals, to amend or withdraw the RFP without notice, and to use the proposals as a basis for negotiation with one or more Proposers and/or with parties other than those responding to this RFP and/or on terms other than those set forth herein. The County reserves the right to waive compliance with and/or change any of the terms of this RFP.

- B. Criteria** In evaluating the proposals for the County, the evaluation committee will consider such criteria (all criteria considered by the County being hereinafter referred to collectively as the “Selection Criteria”) that, in its sole and absolute discretion, are in the best interests of the County. The criteria listed below are of significant concern to the County:

- a) Quantity and certainty of the financial return to the County;
- b) Financial viability of the proposal;
- c) Overall economic development benefit of the proposal, including proposal for and investment in public transportation improvements;
- d) Proposer’s experience in the development, management, marketing and design of projects of a scale, complexity and quality similar to that required by the RFP, and its ability to implement its proposal;
- e) Proposed timeframe for commencement and completion of the redevelopment or reuse;
- f) Proposer’s financial qualifications (including its proven ability to obtain financing for projects of similar size, experience with institutional lenders, and evidence of the willingness of such

lenders to finance the proposed development), and the amount of equity or personal risk the Proposer proposes for the proposal;

g) Quality of the development concepts including the proposed use and design based on:

- Overall compliance with this RFP; and
- Relationship and overall benefit to adjacent public spaces, streets, properties and community; and

h) Proposer's previous record of performance in business dealings with any municipal, state, or federal agencies, including the County.

## **I. BROKERS**

Proposals shall be accepted from principals only. No brokerage fees, finder's fees, commissions, or other compensation will be payable by the County in connection with the selection of the Selected Proposer or the Disposition of the Site. Submission of a proposal by a Proposer in response to this Request will constitute an undertaking by the Proposer to hold harmless and indemnify and defend the County from and against any and all expenses, Damages, or liability (including, without limitation, attorneys' fees and disbursements) arising out of any claim for such fees, commissions, or other compensation made in connection with such Proposer's response to this RFP, selection or nonselection thereunder, or negotiation and execution (or nonexecution) of a Disposition Contract.

## **J. GENERAL CONDITIONS**

The County makes no representations or warranties whatsoever with respect to this RFP and the Site, including, without limitation, representations or warranties as to the accuracy of any information or assumptions contained in this RFP or otherwise furnished to Proposers; the use or progress of development of the Site, or any portion thereof; and site and environmental conditions or the suitability of the Site for any specific uses or development. Proposers shall make their own analysis and evaluation of the income potential and profits and expense of the Site, as well as the physical condition, operation, layout, size, building systems or structural integrity, and Proposers shall not rely upon any statement or information given to Proposers by the County, including without limitation, any information contained in this RFP or in any other documents cited in this RFP.

In addition to those stated elsewhere, this RFP is subject to the specific conditions, terms, and limitations stated below:

- a) The Selected Proposer will be required to comply with all applicable federal, state, and local laws and regulations.

- b) The Proposers will be required to pay the prevailing wage rate as published by the New York State Department of Labor, if applicable, and comply with all applicable New York State Labor Law. The Proposers will also be required to use reasonable efforts to enter into project labor agreements with the various labor organizations that may be hired to provide services in connection with the renovation of the Coliseum, the construction of other improvements on the Site or other construction.
- c) Proposer is bound by and shall comply with the terms of Exhibit U and Exhibit EE which is attached hereto and hereby made a part hereof and with the provisions of Local Law No. 9-2002 entitled "A Local Law to Require Apprenticeship Training Programs for County Licenses".
- d) The Selected Proposer will accept the Site in its "Where Is, As Is" condition on the date of Disposition.
- e) Any construction activities at the Site related to this proposal are to be performed at the sole cost and expense of the Selected Proposer.
- f) Prior to commencing any work, the Selected Proposer shall obtain valid permits and approvals, as required by the County, the Town of Hempstead, and by any other applicable State, federal and local laws, regulations, or agencies.
- g) No Proposer will be selected if, in the determination of the County, any principal of the Proposer or any other member of the Proposer's development team is in arrears or in default upon any debt, contract, or obligation to or with the County or any of its agencies or instrumentalities.
- h) The County will not pay for or refund any costs and expenses incurred by a Proposer in responding to this RFP or by the Selected Proposer following selection or designation.
- i) All determinations as to the completeness or compliance of any proposal, or as to the eligibility or qualification of any Proposer, will be within the sole and absolute discretion of the County.
- j) Acceptance of a Proposer's proposal or selection of the Selected Proposer pursuant to this RFP will not create any rights on the Proposer's or Selected Proposer's part, including without limitation rights of enforcement, equity, or reimbursement. After execution and delivery of the Disposition Contract (as more particularly set forth in Section F (4) hereof), the terms thereof will thereafter govern the relationship between the County and the Selected Proposer. In the event of any variance between the terms of this RFP and the Disposition Contract, the Disposition Contract will govern.

- k) The County advises all Proposers that there is no legal obligation on part of the County to have a Disposition of the Site through a competitive bid or competitive negotiation process, that this Request does not constitute an offer or request for bids, and that the County reserves the right to use the proposals submitted as a basis for negotiation with Proposers or other parties as the County deems appropriate.
- l) This RFP may be reissued, amended, or withdrawn if it is deemed in the best interest of the County to do so, or if, in the sole and absolute judgment of the County (in consultation with its advisors), all the responses are unacceptable. Issuance of this RFP does not obligate the County to undertake any action.
- m) Proposers will be rejected by the County if such Proposers, or any principal, partner, officer, director or principal shareholder of the Proposer's firm is determined, in the sole discretion of the County, to have been convicted of or, pleaded guilty or nolo contendere to a felony or crime of moral turpitude, to be an "organized crime figure", to be under indictment or criminal investigation, or to be in arrears or in default on any debt, contract, or obligation to or with a New York State or local government entity. The Selected Proposer may be required to complete a background questionnaire to verify that it is in full compliance with these requirements.
- n) The County will withhold proposals submitted under this RFP from disclosure, unless otherwise required by law, including, but not limited to, the Freedom of Information Law ("FOIL"). Proposers should indicate any information they feel is exempted from disclosure under FOIL. In the event that the County determines that information is required by applicable law to be disclosed, the County will notify the Proposer in advance of such disclosure to enable the Proposer to take such action as it deems appropriate. Copies of executed contracts are not exempt from FOIL.
- o) If for any reason the County decides not to proceed with the Disposition of the Site or decides to dispose of the Site outside this solicitation process, the County will not be liable for any costs and expenses associated with the preparation, clarification, submission, or negotiation of proposals submitted in response to this Request.

ATTACHMENT "A"  
NASSAU VETERANS MEMORIAL COLISEUM SITE MAP





## **EXHIBIT EE**

### **Equal Employment Opportunities For Minorities and Women**

The provisions of this Exhibit EE are hereby made a part of the document to which it is attached.

The Contractor (as defined below) shall comply with all federal, state and local statutory and constitutional anti-discrimination provisions. In addition, Local Law No. 14-2002, entitled "Participation by Minority Group Members and Women in Nassau County Contracts," governs all County Contracts (as defined below) and solicitations for bids or proposals for County Contracts. In accordance with Local Law 14-2002:

(a) The Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status in recruitment, employment, job assignments, promotions, upgradings, demotions, transfers, layoffs, terminations, and rates of pay or other forms of compensation. The Contractor will undertake or continue existing programs related to recruitment, employment, job assignments, promotions, upgradings, transfers, and rates of pay or other forms of compensation to ensure that minority group members and women are afforded equal employment opportunities without discrimination.

(b) At the request of the County contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status and that such employment agency, labor union, or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(c) The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the County Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(d) The Contractor shall make its best efforts to solicit active participation by "Certified business" enterprises (as defined in Section 101 of Local Law No. 14-2002).

(e) The Contractor shall be bound by the provisions of Section 109 of Local Law No. 14-2002 (entitled "Enforcement").

(f) The Contractor shall include the provisions of (a) through (e) above in every sublicense providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000) for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the Contractor.

The provisions of (a) through (f) above do not apply to: (i) work, goods or services unrelated to the County Contract, or (ii) employment or employment related activities outside of the County.

## **EXHIBIT EE**

As used in this Exhibit EE the term “County Contract” means (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of twenty-five thousand dollars (\$25,000), whereby a County contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the County; or (ii) a written agreement in excess of one hundred thousand dollars (\$100,000), whereby a County contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon. However, the term “County Contract” does not include agreements or orders for the following services: banking services, insurance policies or licenses, or licenses with a County contracting agency for the sale of bonds, notes or other securities.

As used in this Exhibit EE the term “Contractor” means an individual, business enterprise, including sole proprietorship, partnership, corporation, not-for-profit corporation, or any other person or entity other than the County, whether a contractor, licensor, licensee or any other party, that is (i) a party to a County Contract, (ii) a bidder in connection with the award of a County Contract, or (iii) a proposed party to a County Contract.

## EXHIBIT U

Introduced by Legislators: Schmitt, Becker, Ciotti, Dunne, Gonsalves, Mangano, Muscarella, Nicoletto, Pontillo, Jacobs, Abrahams, Corbin, Zapson, Scannell, Toback, Altman, Johnson, Muellers and Denenberg

Local Law No. 19 – 2003

### A LOCAL LAW TO PROHIBIT THE USE OF COUNTY RESOURCES TO INTERFERE WITH COLLECTIVE BARGAINING ACTIVITIES OF UNIONS IN NASSAU COUNTY.

Passed by the Nassau County Legislature on December 17, 2003

Voting: ayes: 18, nays: 0, abstained: 0

Became a law on December 29, 2003 with the approval of the Deputy County Executive.

BE IT ENACTED by the Nassau County Legislature as follows:

The Miscellaneous Laws of Nassau County are amended by adding a new title to read as follows:

#### Title 56

#### COLLECTIVE BARGAINING ACTIVITIES OF UNIONS IN NASSAU COUNTY

##### § 1. Legislative Intent.

This Legislature hereby finds and determines that funds appropriated by the County Legislature for the purchase of necessary goods and services should ultimately be expended solely for the purpose for which they were appropriated and should not be used to deter, or promote union organizing.

This Legislature also finds that the use of County funds and property to assist, deter or promote union organizing causes conflicts and work interruptions which waste scarce County resources on issues of secondary importance.

This Legislature further finds and determines that where the County expends significant resources for the purchase of goods or the delivery of needed human services, the County's financial interests is advanced by the promotion of non-confrontational procedures which limit the economic and social disruptions associated with collective bargaining disputes.

This Legislature also determines that the State of New York has recently enacted amendments to the New York Finance Law to restrict the use of State funds in assisting, deterring or promoting union organizing.

Therefore, the purpose of this law is to protect the County's financial interests in connection with its commitment of economic resources by prohibiting funding of certain forms of labor/management conflict and is not intended to provide an advantage to either labor or management during the conduct of union organization campaigns, nor to express any generally applicable policy regarding labor/management relations.

## §2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

- A.) "Assist, Promote or Deter Union Organizing" shall mean any attempt by an employer to influence the decision of its employees in the County of Nassau or those of its sublicensors regarding either of the following:
  - 1.) whether to support or oppose a labor organization that represents or seeks to represent those employees; and
  - 2.) whether to become a member of any labor organization.
- B.) "Binding Arbitration Agreements" shall mean a written agreement to submit any dispute arising out of the efforts of a labor organization to represent the employees of a County Licensor to final and binding arbitration.
- C.) "County Licensor" shall mean any employer that receives more than Fifty Thousand (\$50,000) Dollars in County funds for supplying goods or services pursuant to a written license with the County of Nassau or any of its agencies; pursuant to a Nassau County grant; pursuant to a Nassau County program; pursuant to a Nassau County reimbursement for services provided in any calendar year; or pursuant to a sub-license with any of the above.
- D.) "County Funds" shall mean any monies appropriated by the Nassau County Legislature.
- E.) "County Property" shall mean any property or facility owned or leased to or by the County of Nassau or any Nassau County agency or authority.
- F.) "Employee" shall mean any person employed by an employer other than a person employed in a supervisory, managerial or confidential position as defined by applicable law.
- G.) "Employer" shall mean any individual, corporation, unincorporated association, partnership, government agency or authority, or another legal entity, whether a for profit entity, a not-for-profit entity or a public entity that employs more than one person in the County of Nassau.
- H.) "Fair Communication Agreements" shall mean a written agreement requiring the parties to such agreement to refrain from providing employees with false and misleading information regarding the circumstances surrounding their employment.
- I.) "Human Services License" shall mean a County license, grant or reimbursement of over Fifty Thousand (\$50,000) Dollars for the provision of health, mental health, residential or day treatment services to the mentally ill and developmentally disabled, social services and other care and treatment services of the County.
- J.) "Labor Disputes" shall mean any concerted action concerning wages, hours and conditions of employment or concerning the representation of person in negotiating, maintaining changing or seeking to arrange wages, hours and conditions of employment.
- K.) "Labor Organization" shall mean an organization of any kind in which employees participate and

which exists for the purpose, in whole or in part, or representing employees concerning wages, rates for pay, benefit, grievances, labor disputes, hours of employment, working conditions or other matters incidental to the employment relationship, and shall include the parent, national or international organization of a local labor organization.

- L.) "Majority Authorization Card Agreement" shall mean a written agreement authorizing the recognition of a labor organization as the exclusive bargaining agent for a bargaining unit based on the presentation of a majority of authorizing cards.
- M.) "Neutrality Agreement" shall mean a written agreement by a County Licenser not to participate in or request or otherwise seek to influence, either in writing or orally, the decision of its employees as to whether or not to be represented by a labor organization.
- N.) "Non-Intimidation Agreements" shall mean a written agreement prohibiting the parties from coercing or intimidating employees explicitly or implicitly in selecting or not selecting a bargaining representative.
- O.) "Reasonable Access Agreement" shall mean a written agreement granting a labor organization reasonable access to employees and information necessary to be communicated therewith.

### §3. Prohibitions

- A.) A County Licenser shall not use any of County funds to assist, promote or deter union organizing.
- B.) No County funds shall be used to reimburse a County Licenser for any costs incurred to assist, promote or deter union organizing.
- C.) The County of Nassau shall not use County funds to assist, promote or deter union organizing.
- D.) All County licenses, grant applications, program guidelines and any other relevant documents shall contain the text of the prohibitions in this section.
- E.) No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote or deter union organizing.
- F.) Prior to the award of a County license or grant, and/or prior to authorization to participate in a County program, the potential awardee, recipient, and or program participant, as the case may be, shall provide a certification, subscribed by such awardee, recipient and or program participant and affirmed by said person as true under the penalties of perjury to the County agency or authority involved that none of the funds shall be used to assist, promote or deter union organizing.
- G.) Every request for payment of County funds by a County Licenser shall include a certification, subscribed to by such person seeking reimbursement and affirmed by said person as true under the penalties of perjury, that the Licenser is not seeking reimbursement for costs incurred to assist, promote or deter union organizing.
- H.) Every County Department, Agency, Authority or Office shall require those seeking County licenses, grants, awards, program participation and/or County reimbursement to certify and affirm as true under the penalty of perjury that such entities will take all action necessary to ensure that County

funds are not used to assist, promote or deter union organizing.

- I.) Any County Licensor who makes expenditures or incurs costs to assist, promote or deter union organizing shall maintain records sufficient to show that no County funds were used for those expenditures and, as applicable, that no reimbursement from County funds has been sought for such costs. Such records shall be made available to the pertinent County agency or authority, the County Comptroller, or the County Attorney, upon request.

#### § 4. Accounting.

Each County Licensor shall account for funds spent on assisting, deterring or promoting union organizing activities as follows:

- A) County funds designated by the County for use for a specific expenditure of the recipient shall be accounted for as allocated to the expenditure.
- B.) County funds that are not designated as described in paragraph (A) of this section shall be allocated on a pro rata basis to all expenditures by the recipient that support the program for which the grant is awarded.
- C.) If County funds and other funds are commingled, and the Licensor fails to keep records sufficient to satisfy the requirements of paragraphs (A) or (B) of this section, any expenditure to assist, promote or deter union organizing shall be allocated between the County funds and other funds on the pro rata basis derived from the interplay of paragraphs (A) and (B) of this section.
- D.) Any expense, including legal and consulting fees and salaries of supervisor and employees, incurred for research for, or preparation, planning or coordination of, carrying out, an activity to assist, promote or deter union organizing shall be treated as paid or incurred for that activity.

#### § 5. Applicability.

- A) This law shall apply to any licenses awarded on or after the effective date of this law.
- B.) This law shall not apply to an activity performed or to an expense incurred in connection with any of the following:
  - 1.) addressing a grievance or negotiating or administering a collective bargaining agreement;
  - 2.) allowing a labor organization or its representative's access to the employer's facility or property;
  - 3.) performing an activity required by Federal or State law or by a collective bargaining agreement; and
  - 4.) negotiating, entering into or carrying out a voluntary recognition agreement with a labor organization.

## § 6. Implementation.

Every Nassau County Department, Agency; Authority or Office shall:

- 1.) Include in all bid documents, County grant applications, County program guidelines and County reimbursement documents, a statement informing potential and actual County licensors that the efficient, timely and non-disruptive provision of goods and services sought by such Department, Agency, Authority or Office is a paramount financial interest of the County of Nassau and as such the County expects the potential County Licensor to protect the County's financial interest by adopting non-confrontational procedures for the orderly resolution of labor disputes. The statement shall also inform the potential and actual County licensors that such non-confrontational procedures may include, but are not limited to, neutrality agreements, majority authorization card agreements, binding arbitration agreements, fair communication agreements, non-intimidation agreements and reasonable access agreements.
- 2.) Require County licensors and those seeking County licenses, to certify and affirm as true under the penalty of perjury:
  - a.) that such Licensor will not express to employees any false or misleading information that is intended to influence the determination of employee preferences regarding union representation;
  - b.) that such Licensor will not coerce or intimidate employees, explicitly or implicitly, in selecting or not selecting a bargaining representative;
  - c.) that such Licensor will not require an employee, individually or in a group, to attend a meeting or an event that is intended to influence his or her decision in selecting or not selecting a bargaining representative;
  - d.) that such Licensor understands its obligation to limit disruptions caused by pre-recognition labor disputes through the adoption of non-confrontational procedures for the resolution of pre-recognition labor disputes with employees engaged in the production of goods or the rendering of services for the County; and
  - e.) that such Licensor has and will adopt any or all of the above-referenced procedures, or their functional equivalent, to ensure the efficient, timely and quality provision of goods and services to the County. The Licensor shall include a list of said procedures in such certification.
- 3.) Ensure that every County license for the provision of services, when such services will be performed on County property, include as a condition of award, grant receipt or reimbursement, as the case may be, a requirement that such County Licensor adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, non-intimidation agreement, and a majority authorization card agreement.
- 4.) Ensure that every County license for the provision of human services, when such services are not to be performed on County property, include as a condition of award, grant receipt or reimbursement, as the case may be, a requirement that such County Licensor adopt, at the

least, a neutrality agreement.

§ 7. Penalties.

- A) A County Licenser who expends funds and/or obtains reimbursement for funds spent in violation in Section 3 or 4 of this law shall be liable for any funds so expended plus a civil penalty equal to twice the amount of those funds. Such penalty shall not be paid by the contractor from any other County funds. In addition, said County Licenser shall be prohibited from bidding on County licenses for a period of five (5) years from the final determination of a violation, either by administrative action or judicial action.
- B.) An employer that violates Section 3 of this law, shall also be liable for a civil penalty equal to One Thousand (\$1,000) Dollars per employee per meeting. Such penalty shall not be paid by the employer from any other County funds.
- C.) Any public official who knowingly authorizes the use of County funds in violation of Section 3 of this law, shall be liable to the County for those funds.

Section 8. Enforcement.

- A) A civil action for a violation of this law may be brought by the County Attorney's office for injunctive relief, damages, civil penalties and other appropriate equitable relief.
- B.) All damages and civil penalties collected pursuant to this law shall be paid to the general fund of the county;
- C.) Any Labor Organization may file a complaint with the Nassau County Department of Labor or the Nassau County Attorney's office alleging violations of this law. Said complaint shall be promptly investigated and a written response shall be issued to the complaining Labor Organization.

§ 9. Rules and Regulations.

The Department of Labor shall promulgate such rules and regulations as it deems necessary and appropriate for the implementation and enforcement of any provision of this law.

§ 10. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 11. Effective Date.

This law shall take effect on the later of March 1, 2004 or upon the filing with the Office of the Secretary of State.